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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,228	11/19/2003	Matthias Frericks	920-8US (P10182US)	9056
570	7590 07/01/2004		EXAMINER	
	MP STRAUSS HAUE	MACHUGA	, JOSEPH S	
ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013			ART UNIT	PAPER NUMBER
			3762	<u>-</u>

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Applicant(s)   Applicant(s)   Examiner   Joseph S. Machuga   3762   John Communication appears on the cover sheet with the correspondence address - Period for Reply   A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILUNG DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply   SET TO EXPIRE 3 MONTH(S) FROM THE MAILUNG DATE OF THIS COMMUNICATION.    - Extensions of time may be validate under the provisions of 37 CR1 1136(). In no event, however, may a reply be tamply filled when the table 30 MONTH for one he mainly date of this communication in the state 30 MONTH for the mainly date of this communication in the state 30 MONTH for the mainly date of this communication in the state 30 MONTH for the mainly date of this communication in the mainly date of this communication in the mainly date of this communication in the mainly date of this communication which the mainly date of this communication, even if timely filed, may reduce why status are provided to the mainly date of this communication, even if timely filed, may reduce why status are provided to the mainly date of this communication, even if timely filed, may reduce why status are provided to the mainly date of this communication, even if timely filed, may reduce why status are provided to the mainly date of this communication, even if timely filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce why status are provided to the mainly filed, may reduce			A				
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Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  after SX (8) MONTHS from the mailing date of this communication.  If the period for reply set period dover, the maximum statutory period will apply and will expire SX (8) MONTHS from the statutory minimum of bitiny (20) says will be considered timely.  If NO period for reply a specified above, the maximum statutory period will apply and will expire SX (8) MONTHS from the mailing date of this communication.  If NO period for reply a specified above, the maximum statutory period will apply and will expire SX (8) MONTHS from the mailing date of this communication, even if timely filed, may reduce any standard patient term adjustment. See 37 CFR 1.704(b).  Status  1) Responsive to communication(s) filed on							
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1) Responsive to communication(s) filed on	A SHORTENED STATUTORY PERIOD FOR REPL' THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.1: after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply with by statute Any reply received by the Office later than three months after the mailing	36(a). In no event, however, may a reply be a y within the statutory minimum of thirty (30) di will apply and will expire SIX (6) MONTHS fro , cause the application to become ABANDON	timely filed  ays will be considered timely.  m the mailing date of this communication.  IED (35 U.S.C. § 133).				
2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-15 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are eljected.  7) Claim(s) is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of Praftsperson's Patent Drawing Review (PTO-948)  3) Notice of Informal Patent Application (PTO-152)  9) Other:	Status						
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Art Unit: 3762

## Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The statement that "the titanium nitride coating has a larger surface on it's side remote from the electrode surface" is not understood. The exact location of where this is and what it exactly means in light of Fig 1A is not clear.

## Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 4. Claims 1-8, 10-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chitre et al #6430448.

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## Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 6. Claims 1-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chitre et al #6430448 in view of Baker, Jr. #4679572.
- 7. Chitre et al discloses an electrode assembly have a tip constructed of a layer on titanium nitride and an out coating of platinum black. Not disclosed by this reference is the layer of Iridium oxide. Baker, Jr. teaches that Iridium oxide is an exception alternative to platinum black in an electrode. The reference also teaches the use of sputtering to deposit the material and notes the use of the electrode for an anode. Given Baker, Jr.'s teaching, it would have been obvious to one of ordinary skill in the art to use iridium oxide in place of platinum black in Chitre et al to provide a better coating. To use the device as an anode and deposit the material by sputtering would have been obvious given that the use is old and well known in the art and given that sputtering/electrodepositing is also an old and well excepted method of applying a coating.
- 8. Claim 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chitre et al #6430488 as applied to claims 1 above or Chitre et al #6430448 in view of Baker, Jr. #4679572 as applied to claim 1 above, and further in view of Mund et al #4603704. Mund et al teaches that stimulating electrodes used in pacemakers also

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have application in nerve and muscle stimulators. Given this teaching it would have

been obvious to one of ordinary skill in the art to use the pacemaking electrodes of

Chitre et al or of the proposed combination as a nerve stimulator given Mund et al's

teaching of this.

9. The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Joseph S. Machuga whose telephone number is 703-

305-6184. The examiner can normally be reached on Monday-Friday; 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

angel D.

ANGELA D. SYKES

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Joseph S. Machuga

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Examiner

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